

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No. 04-16J
)	
JESSICA M. SHALL,)	
)	
Defendant.)	

Memorandum Opinion and Order of Court

This matter comes before the Court on the Defendant's Petition to Continue Bond While on Appeal (Document No. 23). The Defendant argues for release of the Defendant on Bond pending the conclusion of the appeal process in this matter. The Defendant asserts that her appeal "raises a substantial question of law and fact concerning mitigating role which would likely Result [sic] in a sentence of home confinement rather than imprisonment." Defendant's Brief (Document No. 26), ¶ 3. The Government opposes the Defendant's motion in the absence of any evidence demonstrating a basis for granting bond under 18 U.S.C. § 3143(b). The Defendant's bald assertion that a "substantial question" exists concerning a mitigating role argument, one that the Court assumes was addressed at the time of sentencing, does not demonstrate the existence of a "substantial question" in accordance with Third Circuit precedent. *See U.S. v. Miller*, 753 F.2d 19, 22-24 (3d Cir. 1985); *U.S. v. Smith*, 793 F.2d 85, 88-90 (3d Cir. 1986). Furthermore, the Defendant has not demonstrated that the appeal would result in "a sentence that does not include a term of imprisonment" 18 U.S.C. § 3143 (b)(1)(B)(iii). *See Miller* at 23 (discussing under previous version of statute that detainee must demonstrate the likelihood

of reversal or order of a new trial upon appeal). For these reasons, the Defendant's motion is denied.

AND NOW, this 1st day of June, 2006, this matter coming before the Court on the Defendant's Petition to Continue Bond While on Appeal (Document No. 23), in accordance with the foregoing Memorandum Opinion, IT IS HEREBY ORDERED THAT the Petition is DENIED.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is written in a cursive, flowing style with some capital letters.

**KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE**